IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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G.C.R. No.15 of 1999
Date of Decision:18.10.2006

Commissioner of Central Excise

.....Petitioner

Vs.

M/s Goetze (India) Limited

.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- None for the petitioner.

Shri Hemant Sarin, Advocate for the respondent.

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RAJESH BINDAL, J.

The following question of law has been referred for opinion of this Court by the Customs, Excise and Gold (Control) Appellate Tribunal, Bench-NB Division Bench (for short, `the Tribunal') arising out of its order passed in E/Appeal No.1181/96-NB dated 19.1.1998:-

> "Whether Fibre Glass Filter Mesh which is part of the machine and is declared as an input under Rule 57A is not covered under the excluded category of items in the explanation to Rule 57A and should the modvat credit not be denied on such fibre glass filter mesh?"

At the outset, counsel for the assessee referred to and relied upon judgment of Hon'ble the Supreme Court in **Collector of Central Excise, Bangalore Vs. Escorts Mahle Ltd., (2003) 4 SCC 758**, wherein an identical issue was gone into in the case of sister concern of the assessee. Relying upon earlier judgment in **C.A. No.6615 of 2003 - CCE Vs. Steel Authority of India Ltd,** it was held that the assessee therein was entitled to MODVAT credit on ramming mass, fibre glass and filter mesh. The same view was expressed by this Court in Excise Duty Reference No.7 of 1997 – **M/s Oswal Steels, Faridabad Vs. Collector of Central Excise, New Delhi** decided on 17.12.2004.

No one has appeared on behalf of the Revenue to dispute this factual and legal position.

We have perused the judgments referred to above, which fully cover the question of law referred to above. Accordingly, we answer the question against the Revenue and in favour of the assessee.

(RAJESH BINDAL)
JUDGE

October 18, 2006 **(ADARSH KUMAR GOEL)**
renu **JUDGE**